


**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
BOARD OF ADMINISTRATION**

MINUTES OF MEETING

Wednesday, October 19, 2011



The Board of Administration met on Wednesday, October 19, 2011 in the Lincoln Plaza North Building, Auditorium, 400 Q Street, Sacramento, California.

The meeting was called to order at approximately 9:34 a.m. and the following members were present:

Rob Feckner, President
George Diehr, Vice President
Michael Bilbrey
Terry McGuire for John Chiang
Richard Costigan
JJ Jelincic
Henry Jones
Grant Boyken for Bill Lockyer
Priya Mathur
Lou Moret
Tony Oliveira
Ronald Yank

Board of Administration Members excused: Dan Dunmoyer

AGENDA ITEM 3 – APPROVAL OF SEPTEMBER 2011 MEETING MINUTES

On **MOTION** by Richard Costigan, **SECONDED** by George Diehr, and **CARRIED** that the September 14, 2011 Open Session minutes be approved as presented.

AGENDA ITEM 4 – PRESIDENT'S REPORT

President Feckner announced the appointment of Mary Ann Burford as his new principal advisor. Ms. Burford has been with CalPERS for over 19 years, most recently serving as a top manager in the Customer Service Outreach Division (CSOD) where she played a leadership role in developing the mission and vision of CSOD. She also ran the employer educational forums for many years.

AGENDA ITEM 5 – CHIEF EXECUTIVE OFFICER’S REPORT

Anne Stausboll reported on the following recent activities:

- The new my|CalPERS system was successfully launched on September 19. A special recognition event was held on September 29 to thank all 2,300 employees for all their efforts and commitment to the success of the project.
- CalPERS will be hosting its annual education forum beginning October 24 at the Long Beach Convention Center. Nearly 600 attendees have registered for the three-day event which will feature 40 workshops and 22 exhibits. Two keynote speakers are: Dennis Snow, a customer service expert and veteran of Disney Corporation; and former U.S. Congressman Earl Pomeroy, who will speak about public issues facing public pension plans.
- The Board reviewed a plan earlier in the week to implement the governance reform initiatives that were approved in September. The scope and magnitude of the reforms will take an incremental approach over several months. In 2012, CalPERS will implement the new committee structure and reaching out to stakeholders to ensure they’re fully informed on what changes are being made.
- A joint legislative conference committee has been established to hold a series of hearings on pension policy. CalPERS will be providing testimony at the first hearing in Carson on October 26.
- Several CalPERS executives attended a small conference last month sponsored by the UC Berkeley Center for Labor, Research, and Education titled *The Retirement Security Challenge for California’s Private Sector Workers*.
- The Health Benefits Committee will be conducting a workshop in December to review the findings and conclusions from CalPERS Health Benefit Purchasing Review project. In January, the Board will further review specific cost containment and reduction concepts.

Ms. Stausboll recognized the efforts of the Disability Advisory Committee (DAC) of CalPERS Diversity Outreach Program, which recently received second place honors for the best disability advisory council in State service in 2011.

President Feckner thanked Ms. Stausboll and staff for all their hard work. A number of Board members are scheduled to participate in the educational forum. President Feckner also thanked the PSR project staff, Steve Kessler, Dale Jablonsky and Donna Lum for their hard work and responsiveness to CalPERS members and the Board during the my|CalPERS project launch.

AGENDA ITEM 6 – CHIEF INVESTMENT OFFICER’S REPORT

Joe Dear, Chief Investment Officer (CIO), presented the CIO report to the Board. Items included:

- The main drivers of the investment environment remain the same since mid-summer: faltering growth in developed markets; Euro-zone sovereign and banking debt crisis; and lack of confidence in political leaders and systems.
- The challenging market is reflected in the results for the Total Fund in the third quarter. The Total Fund lost seven percent in the quarter ended September 30, finishing with \$219 billion in assets.
- The Portfolio slightly outperformed the policy benchmark, coming in 16 basis points over. The one-year return was 4%, or 61 basis points below the policy benchmark.

AGENDA ITEM 7 – INVESTMENT COMMITTEE

George Diehr, Chair, Investment Committee, presented the Committee Summary report to the Board. The Committee met on Monday, October 17, 2011.

Additional information may be found in the October 17, 2011 Agenda materials and transcripts of the Committee meeting.

The next meeting of the Investment Committee is scheduled for November 14, 2011 in Sacramento, California.

AGENDA ITEM 8 –RISK MANAGEMENT COMMITTEE

The Committee did not meet in October.

AGENDA ITEM 9 – BENEFITS AND PROGRAM ADMINISTRATION COMMITTEE

George Diehr, Chair, Benefits and Program Committee (BPAC), presented the Committee Summary report to the Board. The Committee met on Tuesday, October 18, 2011.

Additional information may be found in the October 18, 2011 Agenda materials and transcripts of the Committee meeting.

On **MOTION** by Committee and **CARRIED**, the Board approved the following:

- Acceptance and approval of the proposed amendment changes to Board Election Regulation 554.4 Candidate Statement.

- Approval of the proposed regulatory language (Attachment A of Agenda materials) and initiation of the rulemaking process to add Section 559.1 to Title 2 of the California Code of Regulations to establish required contract disclosures. The proposed regulation was updated after the BPAC meeting to reflect a revision to Section (a)(2), definition of Board Member, as requested at the Committee meeting.
- Approval of the proposed Board Member percentage of time to be spent on Board-related duties for Michael Bilbrey for FY 2011-12.
- Approval of the proposed Personal Trading Regulations (Attachment B of Agenda materials) as a first reading and directing staff to bring the regulations back for a second reading before initiating the rulemaking process.
- Acceptance of EFI's parallel valuation and certification reports in completion of Task 3 of Contract 2009-5377 for the following actuarial valuations as of June 30, 2010:
 - Legislator's Retirement System (LRS)
 - Judges Retirement System (JRS)
 - Judges Retirement System II (JRS II)
 - 1959 Survivor Program

The next meeting of the Benefits and Program Committee is scheduled for December 13, 2011 in Sacramento, California.

AGENDA ITEM 10 – HEALTH BENEFITS COMMITTEE

George Diehr, Vice President, presented the Health Benefits Committee Summary report to the Board. The Committee met on Tuesday, October 18, 2011.

Additional information may be found in the October 18, 2011 Agenda materials and transcripts of the Committee meeting.

The next meeting of the Health Benefits Committee is scheduled for November 15, 2011 in Sacramento, California.

AGENDA ITEM 11 – FINANCE COMMITTEE

The Committee did not meet in October.

AGENDA ITEM 12 –BOARD GOVERNANCE COMMITTEE

George Diehr, Vice President, presented the Board Governance Committee Summary report to the Board. The Committee met on Tuesday, October 18, 2011.

Additional information may be found in the October 18, 2011 Agenda materials and transcripts of the Committee meeting.

AGENDA ITEM 13 – PERFORMANCE AND COMPENSATION COMMITTEE

The Committee did not meet in October.

AGENDA ITEM 14 – EXTERNAL AFFAIRS UPDATE

Robert Glazier, Director, External Affairs, provided an update on External Affairs and reported on the following:

- External Affairs has been actively engaged in the public discussion on the Governmental Accounting Standards Board (GASB) and their proposed changes to the accounting methods and standards used by public pension plans, some of which would have a significant impact on public employers and how CalPERS serves those employers.
- CalPERS has submitted extensive comments to GASB urging them to modify their proposals or delay their implementation to allow more time to comply with the changes, and worked with the National Association of Retirement Administrators (NASRA) to draft a coalition letter to GASB expressing concerns about their proposed changes.
- Chief Actuary Alan Milligan and Mr. Glazier attended one of GASB's three national hearings in San Francisco, where Mr. Milligan testified before the GASB board.
- CalPERS Educational Forum 2012 will be next week at the Long Beach Convention Center, and will be attended by more than 600 employer representatives – the highest attendance ever.

AGENDA ITEM 15 – BOARD'S STATE LEGISLATIVE PROGRAM/BOARD'S POSITION ON STATE LEGISLATION

Danny Brown, Chief, Governmental Affairs, provided an update on State Legislation and CalPERS sponsored bills and reported on the following:

- AB 1042 (Allen) has been signed by the Governor.
- Two other important bills, SB 398 (Hernandez) and AB 1247 (Fletcher), have also been signed.
- Of two bills sponsored by the State Controller, AB 873 (Furutani) was signed, and SB 439 (Negrete McLeod) was vetoed.

- Members of the Legislature's Interim Conference Committee on pension policy have been named. They are Senators Gloria Negrete-McLeod, Joe Simitian and Mimi Walters, and Assembly Members Warren Furutani, Michael Allen and Joe Silva.
- The first committee hearing will focus on current benefits and types of reforms that have already taken place at both State and local levels. Ann Boynton, Deputy Executive Officer, Benefit Programs Policy and Planning, was invited to appear and will make a presentation on behalf of CalPERS.

AGENDA ITEM 16 – BOARD'S FEDERAL LEGISLATIVE PROGRAM/BOARD'S POSITION ON FEDERAL LEGISLATION

Tom Lussier, CalPERS Federal Liaison, provided updates on federal legislation and reported on the following:

- The two overarching discussions in Washington are the President's upcoming jobs bill, and the special deficit reduction super-committee.
- Staff continues to work with a coalition of public plans to influence some specific rules regarding business conduct standards pending before the Commodities Futures Trading Commission (CFTC).
- The Treasury and Internal Revenue Service (IRS) are said to be planning decisions on the definitions of "retirement age" and "governmental plan", and on the tax-deferred status of employer contributions.

AGENDA ITEM 17 – PUBLIC AFFAIRS UPDATE

Brad Pacheco, Division Chief, Public Affairs, provided an update on Public Affairs and presented the Strategic Communications Report.

- In September, KCRA News visited CalPERS to do a feature story on the launch of the new my|CalPERS system.
- The CalPERS "Pension Buck" has been updated to reflect income through June 30. Over the last 20 years, investments account for 66 cents of every dollar in pensions paid, employers or taxpayers 21 cents, and members 13 cents.

AGENDA ITEM 18 – PENSION SYSTEM RESUMPTION (PSR) PROJECT UPDATE

Karen Ruiz, PSR Project Manager, presented status reports on the PSR and Enterprise Transition Management (ETM) Projects.

Adam Roy, KPMG, Independent Project Oversight (IPOC), reported that the next several months will be critical to proving out the functionality of the system, and achieving stability in operations and service performance. Until such time as the system

is sufficiently stable to enable staff to complete all required transaction types, and begin to work down their current backlogs, the overall condition assessment is cautionary.

Donna Lum, Deputy Executive Officer, Customer Services and Support, reported on the overall status of the project:

- The customer call center has experienced increased call volumes, in part due to the fact that every employer is now required to use the new my|CalPERS system.
- Staff has implemented a variety of mitigations after project launch, such as redirecting resources to the contact center and developing an escalation process to transfer system related issues to a technical team.
- Employer training opportunities continue, including daily webinars.
- Extended contact center hours are from 7 a.m. to 5 p.m., and staff are staying well past 6 p.m. to clear the call queue. Beginning Saturday, a pilot program will open the call center between 7 a.m. and 12:00 p.m. every Saturday for the employers.
- A Rapid Results team was created to identify additional mitigations to assist with employers' issues.
- Call wait times have improved since launch.
- Within the first few days of launch, CalPERS successfully entered over a thousand service retirement applications.
- Other areas, such as death benefits, disability retirements, refunds and payroll reconciliations continue to be closely monitored.
- Processing of service credit purchases continue to be a challenge, and involve many workarounds.
- Approximately 50 employers were impacted recently by an issue with ACH numbers that affected employer EFT payments in the new system. As of yesterday, all impacted employers had been contacted and provided assistance.

AGENDA ITEM 19 – DRAFT AGENDA FOR November 16, 2011 MEETING

No changes were made.

AGENDA ITEM 20 – BOARD MEETING CALENDAR

President Feckner noted that the location for the January 2012 off-site meeting will be 2600 Sand Dunes Drive in Monterey, California.

AGENDA ITEM 21 – BOARD TRAVEL APPROVALS

On **MOTION** by JJ Jelincic, **SECONDED** by Lou Moret and **CARRIED**, the Board approved the Board travel for Richard Costigan to travel to Las Vegas.

On **MOTION** by JJ Jelincic, **SECONDED** by Lou Moret and **CARRIED** with abstentions by Terry McGuire and Grant Boyken, the Board approved three new requests for Richard Costigan and Michael Bilbrey.

AGENDA ITEM 22 – GENERAL COUNSEL’S REPORT

Peter Mixon, General Counsel, reported on the monthly new case report and assignment matrix.

AGENDA ITEM 23 – PROPOSED DECISIONS OF ADMINISTRATIVE LAW JUDGES

Peter Mixon, General Counsel, reported on proposed decisions of Administrative Law Judges, cases 23A through 23E.

On **MOTION** by Richard Costigan, **SECONDED** by JJ Jelincic and **CARRIED**, the Board approved accepting the proposed decisions of Administrative Law Judges for 23A through 23E, and that the reference to alcoholism in 23B be expunged.

Mr. Yank noted that he has received and reviewed an update from Mr. LaSage (23C) dated October 18, 2011.

The Open Session of the Board of Administration recessed at 10:55 and reconvened at 11:15 a.m.

AGENDA ITEM 24 – FULL BOARD HEARING – THOMAS HARRON

President Feckner read the background summary of the case regarding the calculation of final compensation for purposes of Thomas J. Harron’s application for retirement benefits with CalPERS.

CalPERS was the petitioner, and the Otay Water District and Mr. Harron were the respondents. At the August 17, 2011 Board meeting, the Board voted to take this matter up for a full board hearing in which the record from the hearing before the Administrative Law Judge stands as is.

Mr. Harron participated by phone, as per his written request to do so. Neither CalPERS staff nor the Board objected to Mr. Harron’s telephone appearance.

Ms. Patricia Miles, Senior Staff Counsel, was present to represent CalPERS. Mr. Harron is an attorney and elected to represent himself.

The Otay Water District was given notice but had not requested to appear in the proceedings.

Roll was called and the following members were present:

Rob Feckner, President
George Diehr, Vice President
Michael Bilbrey
Terry McGuire for John Chiang
Richard Costigan
JJ Jelincic
Henry Jones
Grant Boyken for Bill Lockyer
Lou Moret
Tony Oliveira
Howard Schwartz for Ronald Yank

Mr. Chirag Shah, Shah & Associates, was present as independent counsel for the Board on full Board hearings and proposed decisions from the Office of Administrative Law hearings. Mr. Shah would be guiding and advising the Board in the proceedings should Board members have questions.

Mr. Shah provided a brief summary of Mr. Harron's case. The two questions before the Board were:

1. Whether the \$222,000 Mr. Harron received as part of his settlement agreement with the Otay Water District must be included in calculating Mr. Harron's final compensation for the purposes of determining his retirement benefits.
2. Whether there is any authority in the doctrine of equitable estoppel to give Mr. Harron a retroactive retirement Effective date, so that he may collect an additional two years of retirement benefits.

Neither party had any newly discovered evidence to be admitted into the administrative record.

Ms. Miles presented Staff's argument that there is no legal or equitable argument under which Mr. Harron must be permitted to have the \$222,000 paid to him in resolution of litigation between himself and his employer included in his retirement calculations. Ms. Miles further argued that the Administrative Law Judge (ALJ) has no statutory authority for creating a fictitious retirement date for Mr. Harron and awarding him damages.

Mr. Harron argued that the settlement amount was paid under a leave of absence and therefore qualified as compensation. He further argued that he was entitled to equitable

estoppel based on a telephone call to the CalPERS call center on the day he decided to accept the settlement offer.

Both parties were allowed 5 minutes each for rebuttal.

Mr. Shah then answered Board member questions.

On **MOTION** by George Diehr, **SECONDED** by Richard Costigan, the Board approved adopting the ALJ's rejection of the \$222,000 as compensation earnable, but to deny the ALJ's rollback of the retirement date to an earlier year.

AGENDA ITEM 25 – PUBLIC COMMENT

Two retired members, Willien Davis and Willette Jacobs were present to challenge benefit caps, and to argue their longstanding claims against CalPERS.

There being nothing further to come before the Board of Administration, the meeting adjourned at 12:44 p.m.

The next Board of Administration meeting is scheduled for November 16, 2011 in Sacramento, California.

ANNE STAUSBOLL
Chief Executive Officer